

GENERAL ORDINANCE NO. G-~~26~~ 26-89.

AN ORDINANCE AMENDING CHAPTER 33 OF THE
MUNICIPAL CODE OF THE CITY OF FORT WAYNE, INDIANA.

WHEREAS, the City of Fort Wayne has adopted Chapter 33 of the Municipal Code regarding the use of buildings, structures and land within the City, and,

WHEREAS, a proposed amendment as herein set out has been made.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The following text is to be added to the Zoning Ordinance.

ARTICLE IX. MISC. PROVISIONS

This section of the City of Fort Wayne Zoning Ordinance shall contain miscellaneous provisions not contained elsewhere in the text.

Section 33-33 Administrative Approval of Amendments to Development Plans.

(a) This procedure shall only be applicable in the following designated districts, when a Development Plan is required: RA, RB, B-2, IA, P.O.D., P.U.D., RGO and MHP overlay district.

(b) Amendments to previously approved Secondary/Final Development Plans, or to Secondary/Final Development Plans as Amended, may be approved by administrative action without requiring Plan Commission approval only in cases where:

1) A Secondary/Final Development Plan or a Secondary/Final Development Plan as Amended has been previously approved by the Plan Commission, and applicable Improvement Location Permits have been issued;

2) A request for amendment is filed together with any and all of the information specified in the requirements sections of the applicable district, which is pertinent to the proposed amendment;

3) Such amendment proposal is accompanied by properly executed application forms and filing fees;

4) Such proposed amendment shall not violate any provision of this chapter, nor any conditions placed upon the previously approved development plan by the Plan Commission;

5) The proposal is not contrary to the general intent of this chapter as it applies to the specific district;

6) Such amendment shall not provide for any reduction in required yards, required open space, or required landscape areas;

7) Amendments to a Development Plan to increase the height of any structure may not be approved administratively;

8) Such amendment may provide for the following exceptions, if all above conditions are met:

a) A one-time addition may be approved providing it does not exceed a ten percent (10%) increase in gross floor area, or 1000 Square feet, whichever is less;

b) The "building footprint" may be shifted up to five feet in any one direction;

c) Accessory structures, if permitted within that zoning designation, may be approved.

(c) Any proposed amendment which does not conform to these provisions shall be processed in the same manner as a Secondary /Final Development Plan submittal.

SECTION 33-34 PROHIBITED USES, SPECIFIED DISTRICTS

(a) Outdoor display shall be regulated as follows:

1) In R-1, R-2, R-3, RA and RB districts, unless otherwise permitted, outdoor display, as defined herein, shall be prohibited.

2) In B1A, B1B, B3A, B3B, and B4 districts, outdoor display shall be prohibited within 75 feet of the front property line, except in conjunction with the following uses when permitted in that district:

- a) Motorized vehicle sales;
- b) Recreational vehicle sales including boats, trailers and mobile home sales;
- c) Service stations including automobile accessory stores;
- d) Plant nurseries; (Only live plants may be openly displayed within 75 feet of the front property line.)
- e) Agricultural implement sales;
- f) Open lot Christmas tree sales;
- g) Cemetery monument sales

3) In POD, IA, or PUD districts, outdoor display shall be prohibited.

4) In B2A, B2B, B2C or B2D districts, outdoor display shall be prohibited within 75 feet of any perimeter property line of that district.

5) In M1, M2, and M3 districts, the following shall apply:

a) outdoor display shall not be permitted within any required front yard;

b) outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted main use.

6) Special event, sidewalk, tent and other special sales may be held up to four (4) times a year in districts permitting business uses for a maximum of ten (10) consecutive days per event, per calendar year. Each ten day period or fraction thereof shall count as one of the permitted times.

(b) Outdoor storage shall be regulated as follows:

1) In any residential district, outdoor storage shall be prohibited in the required front yard and appliances shall not be stored on unenclosed porches. Required side or rear yards may be used for the keeping of firewood and trash containers for household use only.

2) In any non-residential district, outdoor storage shall be prohibited in the front yard, outdoor storage shall be prohibited in the required side or rear yards unless contained within a landscape screen meeting the requirements of the landscape standards as adopted by the Plan Commission, and on file in the office of Community & Economic Development, except in "M" Districts which do not abut residentially zoned property. Nothing herein contained shall be contrary to the provisions set forth in 33-34.

Section 33-35 thru 33-40 are RESERVED.

Amendment to Section 33-3 DEFINITIONS

The following definitions are to be added to the definition section.

TTT) **Yard Sales** shall include garage sales, patio sales, home sales, driveway sales and the like, and shall mean the sale of personal property from a residentially occupied site, provided that such yard sales shall not extend beyond three (3) consecutive days, and further that they may be conducted up to a maximum of twice in a calendar year.

UUU) **Landscape buffers** shall consist of permanent plant and earthforms which do not need to completely block views from one location to another, but which must block views from one location to the unattractive elements at another location.

VVV) **Landscape screen** shall mean a visual barrier consisting of permanent plants, fences, walls, and/or differences in land surface elevations, placed or installed around the area as required to provide a solid and opaque visual barrier to the elements required to be screened from view.

WWW) **Outdoor display** shall mean and refer to the placement of goods, equipment or materials for sale, rental or lease, in a location not enclosed by a structure consisting of walls and a roof. Outdoor display shall not mean yard sales as defined in this ordinance.

XXX) **Outdoor storage** shall be defined as the keeping of goods, materials or equipment in a location not enclosed by walls and a roof.

SECTION 2. All other items and provisions of Chapter 33 of the Municipal Code are hereby ratified and affirmed.

SECTION 3. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Councilmember

APPROVED AS TO FORM AND LEGALITY:

J. Timothy McCaulay
J. TIMOTHY MCCAULAY, ATTORNEY

#394 ORIGINAL

ORIGINAL

DIGEST SHEET

TITLE OF ORDINANCE Zoning Ordinance Amendment

89-07-08

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE Creation of five (5) definitions: 1) Yard Sales; 2) Landscape Screen; 3) Landscape Buffers; 4) Outdoor Display; and, 5) Outdoor Storage. Establish administrative approval of amendments to development plans and establish guidelines for outdoor storage and display.

EFFECT OF PASSAGE Establish time limits of yard sales; streamline some aspects of the development process; control outdoor storage and outdoor display and provide screening requirements to neighboring properties from effects of outdoor storage sites.

EFFECT OF NON-PASSAGE No control over "continuous" yard sales; delay of developments over minor adjustments; and no protection from outdoor storage areas to adjacent properties.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

(ASSIGN TO COMMITTEE (J.N.) _____

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1 7) Amendments to a Development Plan to increase the
2 height of any structure may not be approved
3 administratively;

4 8) Such amendment may provide for the following
5 exceptions, if all above conditions are met:

6 a) A one-time addition may be approved providing
7 it does not exceed a ten percent (10%) increase in
8 gross floor area, or 1000 Square feet, whichever
9 is less;

10 b) The "building footprint" may be shifted up to
11 five feet in any one direction;

12 c) Accessory structures, if permitted within that
13 zoning designation, may be approved.

14 (c) Any proposed amendment which does not conform to these
15 provisions shall be processed in the same manner as a
16 Secondary /Final Development Plan submittal.

17 **SECTION 33-34 PROHIBITED USES, SPECIFIED DISTRICTS**

18 (a) Outdoor display shall be regulated as follows:

19 1) In R-1, R-2, R-3, RA and RB districts, unless
20 otherwise permitted, outdoor display, as defined
21 herein, shall be prohibited.

22 2) In B1A, B1B, B3A, B3B, and B4 districts, outdoor
23 display shall be prohibited within 75 feet of the front
24 property line, except in conjunction with the following
25 uses when permitted in that district:

- 26 a) Motorized vehicle sales;
27 b) Recreational vehicle sales including boats,
28 trailers and mobile home sales;
29 c) Service stations including automobile
30 accessory stores;
31 d) Plant nurseries; (Only live plants may be
32 openly displayed within 75 feet of the front
property line.)
e) Agricultural implement sales;
f) Open lot Christmas tree sales;
g) Cemetery monument sales

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2) In any non-residential district, outdoor storage shall be prohibited in the required front yard, except in "M" Districts which do not abut residentially zoned property. Outdoor storage shall be prohibited in the required side or rear yards unless contained within a landscape screen meeting the requirements of the landscape standards as adopted by the Plan Commission, and on file in the office of Community & Economic Development. Nothing herein contained shall be contrary to the provisions set forth in 33-34.

Section 33-35 thru 33-40 are RESERVED.

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SECTION 2. All other items and provisions of Chapter 33 of the Municipal Code are hereby ratified and affirmed.

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Councilmember

APPROVED AS TO FORM AND LEGALITY:

J. Timothy McCaulay
J. TIMOTHY MCCAULAY, ATTORNEY

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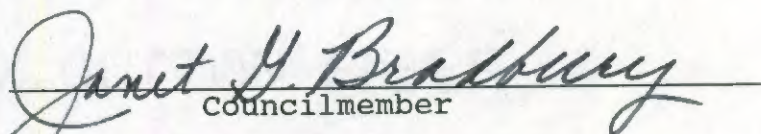
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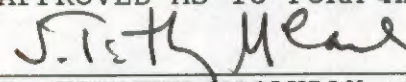
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Councilmember

APPROVED AS TO FORM AND LEGALITY:


J. TIMOTHY-MCCAULAY, ATTORNEY

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: _____

SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Bradbury, seconded by Henry, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____
<u>EDMONDS</u>	<u>✓</u>	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____
<u>LONG</u>	<u>✓</u>	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____

DATED: 12-12-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) _____ (APPROPRIATION) _____ (GENERAL) _____ (SPECIAL) _____ (ZONING MAP) _____ ORDINANCE RESOLUTION NO. 9-26-89, on the 12th day of December, 1989

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Charles S. Reed
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day of December, 1989, at the hour of 11:30 o'clock P. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 18th day of December, 1989, at the hour of 8:00 o'clock P. M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

Read the first time in full and on motion by Bradbury, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on Regulation (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 7-11-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Bradbury, seconded by Henry, and duly adopted, placed on its passage. PASSED ~~LOSS~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	9			
BRADBURY	✓			
BURNS	✓			
EDMONDS.	✓			
GIAQUINTA	✓			
HENRY	✓			
LONG	✓			
REDD	✓			
SCHMIDT	✓			
TALARICO	✓			

DATED: 8-1-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. 9-20-89 on the 1st day of August, 1989,

Sandra E. Kennedy ATTEST
SANDRA E. KENNEDY, CITY CLERK

SEAL
Charles S. Reed
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 2nd day of August, 1989, at the hour of 11:00 o'clock 7 M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

PAUL HELMKE, MAYOR

C&ED COMMUNITY & ECONOMIC DEVELOPMENT

ED MEMORANDUM

To: Members of City Council

From: Larry Magliozzi, *LM* Senior Planner, Land Use Management

DATE: November 27, 1989

SUBJECT: Ordinance G-89-07-08

The above referenced ordinance amendment was initiated to address and be responsive to a number of concerns expressed by citizens and the Plan Commission. The Plan Commission initially heard the proposed zoning text change at its public hearing of June 19th, and forwarded a DO PASS recommendation to you at its business meeting of June 26th.

The text change was amended by the Council and referred back to the Plan Commission on August 1st, 1989. At the Plan Commission business meeting of August 28, 1989 the amended ordinance received a DO PASS recommendation and returned to you. Before the ordinance reached Council for final consideration, it was discovered that a notation had been done on the original ordinance document, relocating the phrase "...except in "M" Districts which do not abut residentially zoned property." (Section 33-34 (b) 2) of the ordinance). The amended text with relocated phrase was again sent back to the Commission for their concurrence.

The Commission did recommend a DO PASS on the second amendment to the ordinance on October 23, 1989 and is now before you for final passage.

LPM:gb

BILL NO. G89-07-08 (AS AMENDED) (AS AMENDED)

REPORT OF THE COMMITTEE ON REGULATIONS

JANET G. BRADBURY, CHAIRPERSON
DAVID C. LONG, VICE CHAIRMAN
EDMONDS, SCHMIDT, TALARICO

Greg 3

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending Chapter 33
of the Municipal Code of the City of Fort Wayne, Indiana

[Empty lines for committee report text]

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

Janet G. Bradbury
David C. Long
Samuel J. Talarico
Clifton R. Edmonds

DATED: 12-12-89.

Sandra E. Kennedy
City Clerk

BILL NO. G-89-07-08

(As amended)
as amended
REPORT OF THE COMMITTEE ON REGULATIONS

July 25
JANET G. BRADBURY, CHAIRPERSON
DAVID C. LONG, VICE CHAIRMAN
EDMONDS, SCHMIDT, TALARICO

WE, YOUR COMMITTEE ON Regulations TO WHOM WAS

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HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~) *No Pass*

DO PASS

DO NOT PASS

ABSTAIN

NO REC

Janet G. Bradbury
David C. Long
Samuel A. Talarico
Clatus R. Edmonds

DATED: *7-25-89*

Sandra E. Kennedy
City Clerk